

SUPERIOR COURT
OF THE
STATE OF DELAWARE

RICHARD F. STOKES
JUDGE

1 THE CIRCLE, SUITE 2
SUSSEX COUNTY COURTHOUSE
GEORGETOWN, DE 19947

July 7, 2011

N440 STATE MAIL
James T. Vaughn Correctional Center
Keenan E. Bacon
SBI: 005
1181 Paddock Road
Smyrna, DE 19977

Re: *State of Delaware v. Keenan E. Bacon*
ID 0512011932

Dear Mr. Bacon:

On June 9, 2011, you filed your first postconviction motion in the above-referenced case.

When considering a postconviction relief motion, the Court must first apply the procedural bars of Rule 61(i).¹ The purpose of the procedural bars is protection of the public's strong interest in the finality of criminal judgments.²

Under Rule 61(i)(1), a postconviction motion may not be filed more than one year after the judgment of conviction is final or three years after a newly recognized retroactively applicable right is recognized by either the state or federal Constitution. No such right applies to your case.

¹*Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

²*State v. Duonnolo*, 2009 WL 3681674, at *1 (citing *Flamer v. State*, 585 A.2d 736, 746 (Del. 1990)(observing that it is a "matter of fundamental import that there be a definitive end to the litigable aspect of the criminal process);

Under Rule 61(m)(2), your convictions became final on September 27, 2007, when the judgment of conviction was affirmed. The fundamental fairness exception stated in Rule (i)(5) is a narrow one and is applied only in limited circumstances.³ This exception does not apply in your case, nor did you attempt to meet the requirements to trigger this exception. Your motion of June 9, 2011 is not timely filed under Rule 61(i)(1).

Your motion for postconviction relief is **DISMISSED** as being time-barred.

IT IS SO ORDERED.

Very truly yours,

Richard F. Stokes

cc: Prothonotary
Paula T. Ryan, Esquire

³*State v. Morales*, 2001 WL 1486169 (Del. Super.).